



July 14, 2020

Chair E. Joaquin Esquivel
Eileen Sobeck, Executive Director
Clerk to the Board
State Water Resources Control Board
1001 I Street
Sacramento, CA 95814

*Submitted electronically to Joaquin.Esquivel@waterboards.ca.gov,
Eileen.Sobeck@waterboards.ca.gov, commentletters@waterboards.ca.gov*

**Re: Request for Public Hearing Before the State Water Resources Control Board
on the Application for the Cat Canyon Aquifer Exemption**

Dear Chair Esquivel, Ms. Sobeck, and Clerk to the Board,

The Environmental Defense Center ("EDC") on behalf of the Sierra Club, by and through the Los Padres Chapter ("Sierra Club"), the Santa Barbara County Action Network ("SBCAN"), and EDC writes to formally request a public hearing on the Application for Aquifer Exemption in the Sisquoc and Monterey Formations of the Cat Canyon Oil Field in Santa Barbara County, California ("Application") before the State Water Resources Control Board ("SWRCB" or "Board").

The Sierra Club is dedicated to exploring, enjoying, and protecting the wild places of the earth; to practicing and promoting the responsible use of the earth's ecosystems and resources; to educating and encouraging humanity to protect and restore the quality of the natural and human environment; and to using all lawful means to carry out these objectives. SBCAN is a countywide grassroots organization that works to promote social and economic justice, to preserve our environmental and agricultural resources, and to create sustainable communities. EDC is a non-profit, public interest law firm that protects and enhances the environment in Santa Barbara, Ventura, and San Luis Obispo Counties through education, advocacy, and legal action. Our clients have members who live, visit, work, and recreate in the Cat Canyon area and would be affected by the approval of the Application.

We ask that the full Board be given the opportunity to take a hard look at this Application and the precedent it may set. Groundwater quality in Cat Canyon is already severely threatened and ranks among the top one percent for groundwater threats, heightening concerns about the degradation of groundwater if this aquifer exemption is approved.¹ Cat Canyon is also ranked in the 90th percentile for drinking water contaminants and in the 97th percentile for impaired surface water bodies.² New information of possible groundwater contamination in the Field from existing oil and gas operations and the pathways by which this pollution traveled is forthcoming by the U.S. Geological Survey (“USGS”).³ Preliminary groundwater quality results released by the USGS with regards to the Orcutt Oil Field and Oxnard Oil Field found contamination from oil and gas activities.⁴ Notably, USGS found that the groundwater wells with the highest thermogenic signals were located above cyclic steaming activity.⁵ Existing sampling and information indicate that it is likely that oil-field fluids and/or thermogenic gases will be detected in at least some groundwater wells throughout the Cat Canyon Oil Field.

In addition to the impacts to groundwater quality from existing oil and gas operations, approval of this Application could catalyze a significant increase in production in the Field using dangerous extraction techniques, such as steam injection, that threaten the drinking water relied upon by local communities.⁶ Some communities rely exclusively on this aquifer for their drinking water supplies.⁷ If approved, these risky projects may also cause irreparable, unmitigated damage to numerous acres of important sensitive habitat and native vegetation, endangered wildlife, our water quality, and public health.⁸

The mission of the SWRCB is “[t]o preserve, enhance, and restore the quality of California’s water resources and drinking water for the protection of the environment, public health, and all beneficial uses,....”⁹ Guided by its mission, we seek the Board’s involvement and input on this decision, especially given the new state criteria for exempting an aquifer under Public Resources Code Section 3131. Based on the plain language of this criteria, the state legislature intended to restrict aquifer exemptions to situations where the injection of fluids will not affect water quality used for any beneficial use, and the injected fluid will remain in the

¹ California Office of Environmental Health Hazard Assessment, *Maps & Data*, available at: <https://oehha.ca.gov/calenviroscreen/maps-data>. Census tract 6083002006.

² *Id.*

³ Davis, T.A., Landon, M.K., and Bennett, G.L., 2018, *Prioritization of oil and gas fields for regional groundwater monitoring based on a preliminary assessment of petroleum resource development and proximity to California’s groundwater resources: U.S. Geological Survey Scientific Investigations Report 2018–5065* at 1, available at: <https://doi.org/10.3133/sir20185065>.

⁴ State Water Resources Control Board, *USGS Stakeholder Meeting* (February 25, 2019), available at: https://www.waterboards.ca.gov/water_issues/programs/groundwater/sb4/regional_monitoring/#stakeholder.

⁵ *Id.*

⁶ County of Santa Barbara, Planning and Development Department, Energy Division, *ERG West Cat Canyon Revitalization Plan Project Final Environmental Impact Report* (February 2019).

⁷ *Id.* at 4.9-7.

⁸ *Id.*; See also *AERA East Cat Canyon Oil Field Redevelopment Project Draft Environmental Impact Report* at 4.3-58; 4.9-16 (November 2018). Although Aera has withdrawn its project, there is nothing to prohibit the operator from applying again later if the Application is approved.

⁹ State Water Resources Control Board, *Home page*, available at: <https://www.waterboards.ca.gov/>.

exempted aquifer. Pub. Res. Code § 3131(a)(2)-(3)(emphasis added). Given that Section 3131 was enacted recently in 2015, we look to the Board to interpret the state's new requirements in accordance with the overall statutory scheme under the federal Safe Drinking Water Act, which is preventive in nature and protective of public health. The Board's evaluation under Section 3131 is critical now, especially since there are other pending aquifer exemptions throughout the state.

Although a hearing was held on the Application before staff in June of 2019, no Board members were present at that hearing and a host of additional information has been submitted since then, including, but not limited to:

- Letter from 46 Environmental and Community Groups in Strong Opposition to Proposed Aquifer Exemption in the Sisquoc and Monterey Formations of the Cat Canyon Oil Field, Santa Barbara County, California (May 20, 2020)
- Letter submitted by Senator Hannah-Beth Jackson of the 19th District to the Chair and Members of the State Water Resources Control Board Regarding Review of the Application for the Cat Canyon Aquifer Exemption (May 2020)
- Letter submitted by U.S. Senator Dianne Feinstein and Congressman Salud Carbajal to the Chair of the State Water Resources Control Board Requesting Suspension of Review (May 21, 2020)
- Letter submitted by County of Santa Barbara Third District Supervisor Joan Hartmann to the Chair and Members of the State Water Resources Control Board Requesting Denial of Final Concurrence (May 12, 2020)
- Letter submitted by County of Santa Barbara First District Supervisor Das Williams to the Chair of the State Water Resources Control Board Requesting Suspension of Review (May 15, 2020)
- Letter submitted by County of Santa Barbara Second District Supervisor Gregg Hart to the Members of the State Water Resources Control Board Requesting Suspension of Review (May 20, 2020)
- Expert Report by Dr. Barry Keller and Dr. Jay Means submitted to the Chair and Board for the State Water Resources Control Board Regarding the Technical and Scientific Issues Related to the Application (June 4, 2020)
- Letter submitted by EDC on behalf of the Sierra Club, SBCAN, and EDC to the Chair and Board for the State Water Resources Control Board Regarding the Interpretation of the Requirements under Public Resources Code Section 3131 (June 30, 2020)
- Letter submitted by Congressman Salud Carbajal to the Chair and Board for the State Water Resources Control Board in Opposition to the Application (July 1, 2020)
- Letter submitted by EDC on behalf of the Sierra Club, SBCAN, and EDC to Staff for the State Water Resources Control Board Regarding the Failure to Demonstrate Confinement of Injected Fluids to Satisfy the State's Criteria for Exempting Aquifers Due to Evidence of Improperly Abandoned Wells in the Field (July 13, 2020)

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In addition to these comments, we emphasize the need for the Board to hear directly from the communities that will be disproportionately impacted by this proposal. A decision on this Application must not be rushed—the health and welfare of local communities depends upon it. Thank you for your consideration of this matter. If you have any questions, please do not hesitate to reach out to Tara Messing, EDC Staff Attorney, at 805-963-1622 x104 or TMessing@EnvironmentalDefenseCenter.org.

Sincerely,

A handwritten signature in black ink, appearing to read "L. Krop".

Linda Krop
Chief Counsel

A handwritten signature in black ink, appearing to read "Tara C. Messing".

Tara C. Messing
Staff Attorney

Cc:

Eric Gillman

John Borkovich

Jonathan Bishop